

Michael P. Tierney
Administrative Patent Judge
Mail Stop Interference
P.O. Box 1450
Alexandria, VA 22313-1450
Tel: 571-272-4683
Fax: 571-273-0042

Filed: 27 September 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

RUTH A. GJERSET, and ROBERT E. SOBOL
Junior Party
(Application 08/335,461),

v.

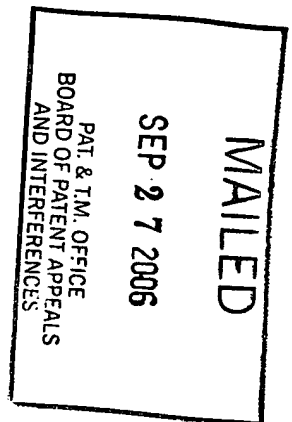
JACK A. ROTH, TOSHIYOSHI FUJIWARA,
ELIZABETH A. GRIMM, TAPAS MUKHOPADHYAY,
WEI-WEI ZHANG, and LAURIE B. OWEN-SCHAUB
Senior Party
(Patent 5,747,469).

Patent Interference No. 105,377 (MPT)

REDECLARATION – BD. R. 203(c)

Michael P. Tierney, Administrative Patent Judge.

The Decision on Motions (Paper No. 72) substituted new Count 2 for Count 1, the sole count in interference. Consistent with the entry of new Count 2, the interference is redeclared to reflect the changed count. While the benefit accorded Gjerset has changed, Roth's accorded benefit has not. Similarly, the claim correspondence remains unchanged



from that identified in the Notice Declaring Interference (Paper No. 1) but is reproduced below for convenience.

The Count

Count 2 is substituted for previous Count 1.

Count 2

A method of killing a tumor cell in a patient in need thereof, comprising directly administering to said tumor cell therapeutically effective amounts of a DNA sequence encoding p53 operatively linked to a promoter and a DNA damaging agent, wherein expression of said p53 and DNA damage result in the killing of said tumor cell.

The Claim Correspondence

The claims of the parties are:

Roth, U.S. Patent No. 5,747,469:	1-105
Gjerset, U.S. Application No. 08/335,461:	1, 2, 4-20 and 23

The claims of the parties which correspond to Count 2 are:

Roth, U.S. Patent No. 5,747,469:	1-105
Gjerset, U.S. Application No. 08/335,461:	1, 2, 4-20 and 23

The claims of the parties which do not correspond to Count 2, and therefore are not involved in the interference, are:

Roth, U.S. Patent No. 5,747,469:	None
Gjerset, U.S. Application No. 08/335,461:	None

The Parties' Accorded Benefit

1. Roth Benefit:

1 Senior party Roth is involved in this interference based on U.S. Patent 5,747,469,
2 granted May 5, 1998. Roth's involved '469 patent is based on U.S. Application No.
3 08/233,002, filed **April 24, 1994**. Roth is not accorded benefit of any earlier filed
4 applications.

5 2. Gjerset Benefit:

6 Junior party Gjerset is involved in this interference based on Application
7 08/335,461, filed **November 7, 1994**. Gjerset is not accorded benefit of any earlier filed
8 applications.¹

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

/Michael P. Tierney/
MICHAEL P. TIERNEY
Administrative Patent Judge

cc: (overnight delivery)

Counsel for GJERSET:

Michael J. Wise, Esq.
PERKINS COIE LLP
1620 26th Street, 6th Floor
South Tower
Santa Monica, CA 90404-4013
Tel: 310-788-3210

Counsel for ROTH:

Steven L. Highlander, Esq.
FULBRIGHT & JAWORSKI LLP
600 Congress Avenue
2400 One American Center
Austin, TX 78701
Tel: 512-536-3184

¹ As noted in the Decision (Paper No. 72), the redeclaration is without prejudice to Gjerset seeking authorization to file a motion for benefit of its earlier filed applications during the priority motions phase of the interference.